



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RTID 0648-XA839

#### Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee

#### Implementation Group Draft Phase II Restoration Plan: #3.2: Mid-Barataria

#### Sediment Diversion

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and a Consent Decree with BP Exploration & Production Inc. (BP),<sup>1</sup> the *Deepwater Horizon* (DWH) Federal and state natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have prepared a Draft Phase II Restoration Plan 3.2 (Draft Phase II RP #3.2). The Draft Phase II RP #3.2 describes and proposes restoration project alternatives considered by the Louisiana TIG to restore natural resources and ecological services injured or lost as a result of the DWH oil spill. The Louisiana TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment regulations. In accordance with NEPA the environmental consequences of the restoration alternatives are evaluated in the associated U.S. Army Corps of Engineers, New Orleans District (USACE CEMVN) Draft Environmental Impact Statement for the Proposed Mid Barataria Sediment

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<sup>1</sup> Consent Decree among Defendant BP Exploration & Production Inc. (“BPXP”), the United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and Texas entered in *In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*, MDL No. 2179 in the United States District Court for the Eastern District of Louisiana.

Diversion Project, Plaquemines and Jefferson Parishes<sup>2</sup> (MBSD DEIS) to which the Louisiana TIG Federal Trustees are cooperating agencies. The purpose of this notice is to inform the public of the availability of the Draft Phase II RP #3.2 and to seek public comments on the document.

**DATES:** *Submitting Comments:* The Louisiana TIG will consider public comments received on or before [*insert date 60 days after date of publication in the Federal Register*].

*Virtual Public Meetings:* Due to continuing COVID-19 limitations on gatherings of groups, the Louisiana TIG will co-host three virtual public meetings with the USACE CEMVN on the following dates:

1. April 6, 2021, 9 a.m. CDT
2. April 7, 2021, 1 p.m. CDT
3. April 8, 2021, 6 p.m. CDT

**ADDRESSES:** *Obtaining Documents:* You may download the Draft Phase II RP #3.2 at: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>. The associated MBSD DEIS may be downloaded at: <http://www.mvn.usace.army.mil/Missions/Regulatory/Permits/Mid-Barataria-Sediment-Diversion-EIS/>.

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<sup>2</sup> The USACE CEMVN EIS Mid-Barataria Sediment Diversion project webpage is accessible here: <http://www.mvn.usace.army.mil/Missions/Regulatory/Permits/Mid-Barataria-Sediment-Diversion-EIS/>.



*Submitting Comments:* You may submit comments on the Draft Phase II RP #3.2 and the associated MBSD DEIS by the following methods:

- *Via the Web:* <https://parkplanning.nps.gov/MBSD>;
- *Via U.S. Mail:* U.S. Army Corps of Engineers, New Orleans District, Attn: CEMVN-OD-SE, MVN-2012-2806-EOO, 7400 Leake Avenue, New Orleans, LA 70118. Please note that mailed comments must be postmarked on or before the comment deadline of 60 days following publication of this notice to be considered; or
- *During the virtual public meetings:* Comments may be provided during the webinar. Webinar information is provided below in **SUPPLEMENTARY INFORMATION**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

You only need to submit your comment via one of these methods. All comments submitted will be reviewed by both the Louisiana TIG and CEMVN. All comments made during the comment period time-frame as described above will become part of the record.

**FOR FURTHER INFORMATION CONTACT:** National Oceanic and Atmospheric Administration – Mel Landry, NOAA Restoration Center, (310) 427-8711, [gulfspill.restoration@noaa.gov](mailto:gulfspill.restoration@noaa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Introduction**

On April 20, 2010, the mobile offshore drilling unit DWH, which was being used to drill a well for BP, in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The DWH oil spill is the largest off shore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The DWH Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the DWH oil spill under OPA (33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);

- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The DWH Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are selected and implemented by the Louisiana TIG. The Louisiana TIG is composed of the following Trustees: CPRA; LOSCO; LDEQ; LDWF; LDNR; NOAA; DOI; EPA; and USDA.

## **Background**

On March 20, 2018, the Louisiana TIG completed its Strategic Restoration Plan and Environmental Assessment #3: Restoration of Wetlands, Coastal, and Nearshore Habitats in the Barataria Basin, Louisiana (SRP/EA #3). In addition to identifying a restoration strategy for the Barataria Basin and confirming its 2018 decision to move forward with the Spanish Pass Increment of the Barataria Basin Ridge and Marsh Creation project, the SRP/EA also advanced a large-scale sediment diversion for further evaluation and planning in a future Phase II restoration plan. Since approval of the SRP/EA #3, the Louisiana TIG has been evaluating a variety of potential alternatives for this large-scale sediment diversion to meet its purpose: deliver freshwater sediment, and

nutrients to the Barataria Basin through a large-scale sediment diversion from the Mississippi River; reconnect and re-establish sustainable deltaic processes between the Mississippi River and the Barataria Basin; and create, restore, and sustain wetlands and other deltaic habitats and associated ecosystem services. Tiering from the SRP/EA #3, the Louisiana TIG is proposing in this Phase II RP #3.2 implementation of the Mid Barataria Sediment Diversion project.

### **Overview of the Louisiana TIG Draft Phase II RP #3.2**

The Draft Phase II RP #3.2 is being released in accordance with OPA NRDA regulations in 15 CFR part 990, NEPA (42 U.S.C. 4321 *et seq.*), the Consent Decree, and the Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement. The Draft Phase II RP #3.2 focuses on an area (“the Project Area”) on the west bank of the Mississippi River at River Mile (RM) 60.7, just north of the Town of Ironton; the anticipated outfall area for sediment, freshwater, and nutrients conveyed from the river is located within the Mid-Barataria Basin. The area of the Proposed MBSD Project and its alternatives includes the hydrologic boundaries of the Barataria Basin and the western portion of the lower Mississippi River Delta Basin, also known as the birdfoot delta. The Mississippi River itself, beginning near RM 60.7 and extending to the mouth of the river, is also included in the Proposed MBSD Project area. In the Draft Phase II RP #3.2, the Louisiana TIG proposes a preferred design alternative for the MBSD Project to be funded under the DWH Louisiana Restoration Area Wetlands, Coastal and Nearshore Habitats restoration type allocation. The preferred alternative (Alternative 1) consists of a controlled sediment and freshwater intake diversion structure in Plaquemines Parish on the right descending bank of the Mississippi River at RM 60.7. The preferred alternative would have a maximum diversion flow of 75,000 cubic feet per second (cfs), which would occur when the Mississippi River gauge at Belle Chase reaches 1,000,000 cfs or higher. The diversion would operate at up to

5,000 cfs (base flow) when the river is below 450,000 cfs at Belle Chase; at river flows above 450,000 cfs, the diversion would be opened fully. At the downstream end of the diversion channel, an engineered area, “outfall transition feature” would be constructed to guide and disperse the channel flow into the Barataria Basin. The preferred alternative is projected to increase land area, including emergent wetlands and mudflats, in the Barataria Basin across the 50-year analysis period relative to natural recovery, with a maximum increase of 17,300 acres in 2050, at the approximate mid-point of the 50-year analysis period. The proposed investment by the Louisiana TIG for this alternative is approximately \$2 billion. This cost reflects current cost-estimates developed from the most current designs and information available to the Louisiana TIG at the time of drafting this restoration plan. Estimated costs reflect all costs associated with implementing the Proposed MBSD Project, potentially including, but not limited to, revising/finalizing engineering and design, permitting, mitigation, land acquisition, construction, monitoring and adaptive management, Trustee oversight, associated stewardship actions, and contingencies. A portion of the engineering and permitting costs has been paid by the National Fish and Wildlife Federation’s Gulf Environmental Benefit Fund.

The Louisiana TIG fully evaluated a smaller-capacity diversion with a maximum capacity of 50,000 cfs (Alternative 2). The Trustees found that such a diversion would provide substantially less benefit in marsh preservation and restoration, with only a small reduction in adverse impacts and a slight cost reduction.

The Louisiana TIG also fully evaluated a larger-capacity diversion with a maximum capacity of 150,000 cfs (Alternative 3). While the marsh creation benefits of such a large diversion would be significantly greater, the collateral injuries and cost would also increase to levels unacceptable to the Trustees.



Alternatives 4–6 are similar to Alternatives 1–3, respectively, but also would include marsh terrace outfall features. The terraces would be chevron or “v” shaped, and oriented toward the discharge current from the diversion. The marsh terrace features would aid in overall sediment retention, would help protect newly deposited sediment from erosion, and would be designed to avoid interfering with the ability of the basin to receive diversion flows. While providing some benefits, the outfall feature alternatives do not substantially change the extent to which the corresponding alternatives with similar capacity and without terraces meet the Proposed MBSD Project’s goals and objectives.

While the Louisiana TIG has rejected the No-Action-Alternative for this Draft Phase II RP #3.2, the OPA analysis provided in Chapter 3 integrates information about the MBSD DEIS No-Action Alternative (40 CFR 1502.14(c)) because it provides a baseline against which the benefits and collateral injuries of the Proposed MBSD Project and its alternatives can be compared.

The Louisiana TIG is committed to continuing efforts to restore the resources that would be adversely affected by the diversion, many of which were also injured by the DWH oil spill. This Draft Phase II RP #3.2 includes proposed strategies to help avoid, minimize, and mitigate collateral injuries to these resources. These include proactive strategies to address the communities, individuals, and stakeholders that rely on the resources that could be harmed by the proposed diversion.

The Louisiana TIG has examined the injuries assessed by the DWH Trustees and evaluated restoration alternatives to address the injuries. In Draft Phase II RP #3.2, the Louisiana TIG presents to the public its draft plan for providing partial compensation to the public for injured natural resources and ecological services in the Louisiana Restoration Area. The preferred alternative is intended to continue the process of using DWH restoration funding to restore natural resources injured or lost as a result of the

DWH oil spill. Additional restoration planning for the Louisiana Restoration Area will continue.

The Draft Phase II Restoration Plan #3.2 does not include integrated NEPA analysis. Under OPA NRDA regulations, Trustees typically choose to combine a restoration plan and the required NEPA analysis into a single document (33 CFR 990.23(a), (c)(1)). Prior to evaluation of the Proposed MBSD Project by the Louisiana TIG as a proposed restoration project under OPA, the U.S. Army Corps of Engineers (USACE CEMVN) initiated scoping for the MBSD Project EIS, which was initiated through a permit application for the project by CPRA. In this case, to increase efficiency, reduce redundancy, and be consistent with Federal policy and 40 CFR 1506.3, the four Federal Trustees in the Louisiana TIG decided to participate as cooperating agencies in the development of a single MBSD DEIS. As the lead agency, the USACE CEMVN has primary responsibility for preparing the MBSD DEIS (40 CFR 1501.5(a)). The Louisiana TIG is relying on the MBSD DEIS to evaluate potential environmental effects of the restoration alternatives proposed in this Draft Phase II RP #3.2. Adoption of the MBSD Final EIS by the Louisiana TIG would be completed upon signature of a Record of Decision (ROD). Public review and opportunity to comment, and virtual public meetings on both the Draft Phase II RP #3.2 and the MBSD DEIS are being run concurrently.

### **Next Steps**

The public is encouraged to review and comment on the Draft Phase II RP #3.2 and associated MBSD DEIS. Virtual public meetings are scheduled to facilitate the public review and comment process for both documents. Each virtual meeting will include a presentation of the Draft Phase II RP #3.2 and a presentation of the associated MBSD DEIS. Following the presentations, public comment will be taken through the virtual meeting platform. Presentation slides, project fact sheets, and a recording of the webinar will be posted on the Louisiana TIG website. Instructions on how to access the

virtual meetings by computer or telephone will be provided on the Louisiana TIG's website approximately two weeks prior to the first meeting.

After the public comment period ends, the Louisiana TIG will consider and address the comments received before issuing a Final Phase II RP #3.2. A summary of comments received and the Louisiana TIG's responses and any revisions to the document, as appropriate, will be included in the final document. After issuing the Final Phase II RP #3.2 and completion of the Final MBSD EIS, the Louisiana TIG anticipates preparing a ROD that formally adopts the MBSD Final EIS and selects an alternative for implementation.

#### **Additional Access to Materials**

You may request a CD of the Draft Phase II RP #3.2 (see **FOR FURTHER INFORMATION CONTACT** above). Copies of the Draft Phase II RP #3.2 and MBSD DEIS are also available for review during the public comment period at the following locations:

<b>Repositories with Paper Copies of the Draft Phase II RP #3.2 and MBSD DEIS</b>	
Location	Address
Lafitte Library	4917 City Park Drive Lafitte, LA 70067 (504) 689-5097
West Bank Regional Library	2751 Manhattan Blvd. Harvey, LA 70058 (504) 364-2660
East New Orleans Regional Library	5641 Read Boulevard New Orleans, LA 70127 (504) 596-0200
Belle Chasse Library	8442 Highway 23 Belle Chasse, LA 70037 (504) 394-3570
Port Sulphur Library	139 Civic Drive Port Sulphur, LA 70083 (337) 527-7200
Buras Library	35572 Highway 11 Buras, LA 70041 (504) 564-0944
South Lafourche Library	16241 East Main Street Cut Off, LA 70345 (985) 632-7140

St. Charles Parish Library Paradis Branch	307 Audubon St, Paradis, LA 70080 (985) 758-1868
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<b>Repositories with Paper Copies of the Draft Phase II RP #3.2 and MBSD DEIS Executive Summary, and Electronic Copies of the MBSD DEIS and Appendices on a USB</b>	
Location	Address
St. Tammany Parish Library	310 W. 21st Ave. Covington, LA 70433 (985) 893-6280
Terrebonne Parish Library	151 Library Dr.Houma, LA 70360 (985) 876-5861
New Orleans Public Library	219 Loyola Ave. New Orleans, LA 70112 (504) 596-2570
East Baton Rouge Parish Library	7711 Goodwood Blvd. Baton Rouge, LA 70806 (225) 231-3750
Jefferson Parish Library East Bank Regional Library	4747 W. Napoleon Ave. Metairie, LA 70001 (504) 838-1190
St. Bernard Parish Library	2600 Palmisano Blvd. Chalmette, LA 70043 (504) 279-0448
St. Martin Parish Library	201 Porter St. St. Martinville, LA 70582 (337) 394-2207
Alex P. Allain Library	206 Iberia St. Franklin, LA 70538 (337) 828-5364
Vermilion Parish Library	405 E. Victor St. Abbeville, LA 70510 (337) 893-2674
Martha Sowell Utley Memorial Library	705 W. 5th St. Thibodaux, LA 70301 (985) 447-4119
Calcasieu Parish Public Library Central Branch	301 W. Claude St. Lake Charles, LA 70605 (337) 721-7116
Iberia Parish Library	445 E. Main St. New Iberia, LA 70560 (337) 364-7024
LSU Agricultural Center, Southwest Region	1105 West Port St. Abbeville, LA 70510 (337) 898-4335

## **Translation Opportunities**

Vietnamese and Spanish translation will be available at all meetings. All pre-recorded presentations are in English, but are available on USACE CEMVN's project webpage in English, Vietnamese, and Spanish. Anyone requiring translation in other languages should contact Ricky Boyett at [ricky.d.boyett@usace.army.mil](mailto:ricky.d.boyett@usace.army.mil) or 504-862-1524.

### **Administrative Record**

The documents comprising the Administrative Record for the Draft Phase II RP #3.2 can be viewed electronically at <http://www.doi.gov/deepwaterhorizon/adminrecord>.

### **Authority**

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and its implementing Oil Pollution Act Natural Resource Damage Assessment regulations found at 15 CFR part 990 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Dated: February 25, 2021.

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Carrie Diane Robinson,  
Director, Office of Habitat Conservation,  
National Marine Fisheries Service.

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